

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CORPORAL B. KURT PRICE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 04-956 (GMS)
)	
COLONEL L. AARON CHAFFINCH, et al.)	
)	
Defendants.)	
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)	
SERGEANT CHRISTOPHER D.)	
FORAKER,)	
)	
Plaintiff,)	
)	C.A. No. 04-1207(GMS)
v.)	
)	
COLONEL L. AARON CHAFFINCH, et al.)	
)	
Defendants.)	

ORDER

WHEREAS, on August 19, 2004, B. Kurt Price (“Price”), a corporal with the Delaware State Police (the “DSP”), Wayne Warren (“Warren”), a corporal with the DSP, and Christopher Foraker (“Foraker”), a sergeant with the DSP, (collectively, the “plaintiffs”) filed the 04-956 action, alleging violations of the First Amendment Free Speech Clause (Count I);

WHEREAS, on October 14, 2005, the plaintiffs filed an amended complaint in the 04-956, adding a claim that the defendants’ conduct violated the First Amendment Free Petition Clause (Count II.);

WHEREAS, on August 30, 2004, Foraker filed the 04-1207 action, which states four counts against the defendants, including Free Speech Retaliation (Count I), Petition Clause Retaliation

(Count II), Defamation (Count III), and False Light Invasion of Privacy (Count IV);

WHEREAS, on January 25, 2006, the plaintiffs filed a Motion to Consolidate (D.I. 90)¹ pursuant to Federal Rule of Civil Procedure 42(a) in both cases;

WHEREAS, the motion asserts that consolidation is appropriate because there are common questions of fact and law in both cases, as well as common witnesses who will testify regarding the same facts;

WHEREAS, on February 8, 2006, the defendants filed an opposition (D.I. 94) to the consolidation motion;

WHEREAS, the opposition asserts that it would be inappropriate for the court to consolidate both cases because the factual background of Foraker's case is more extensive and mostly unrelated to the factual background of the earlier filed case, and the damages are different in both cases;

WHEREAS, the opposition asserts that it would be appropriate, however, to sever Foraker as a plaintiff in the earlier filed case and consolidate all of his claims for one trial;

WHEREAS, on February 15, 2006, the plaintiffs filed a reply (D.I. 101) "strongly oppos[ing]" the defendants request to sever Foraker as a plaintiff in the earlier filed case and reiterating their request to consolidate all claims of both cases;

WHEREAS, Federal Rule of Civil Procedure 42(a) permits the court to consolidate actions that are pending before it, which "involv[e] a common question of law or fact"; and

¹ For convenience, the court will cite to case documents using the D.I. number from the 04-956 case.

WHEREAS, after having considered the parties submissions (D.I. 90, 94, 101) and relevant law, the court concludes that both of the above-captioned cases involve common questions of law and fact, and that consolidation, therefore, is appropriate;

IT IS HEREBY ORDERED that:

1. The plaintiffs' Motion to Consolidate the Trial of These Two Cases Pursuant to Fed. R. Civ. P. 42(a) (D.I. 90) is GRANTED.

Dated: April 18, 2006

/s/ Gregory M. Sleet
UNITED STATES DISTRICT JUDGE